

**UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EDWARD BROWN and
NANCY BROWN,

Plaintiffs,

vs.

LITTON LOAN SERVICING LP and
EMC MORTGAGE CORPORATION,

Defendants.

Case No. 2:09-cv-10864-GER-VMM

Hon. Gerald E. Rosen

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**DEFENDANT LITTON LOAN SERVICING LP'S ANSWER TO
PLAINTIFFS' COMPLAINT AND JURY DEMAND**

Now Comes Defendant Litton Loan Servicing LP ("Litton"), through its attorneys Hertz Schram, P.C., and states the following as its Answer to Plaintiffs' Complaint and Jury Demand:

PARTIES, JURISDICTION AND VENUE

1. Defendant Litton neither admits nor denies the allegations contained in Paragraph 1 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegation.

2. Defendant Litton admits that it is the servicer of Plaintiffs' Mortgage as alleged in Paragraph 2 of Plaintiffs' Complaint. As to the remaining allegations contained in Paragraph 2 of Plaintiffs' Complaint, Defendant Litton neither admits nor denies the allegations for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

3. Defendant Litton neither admits nor denies the allegations contained in Paragraph 3 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations and/or because the Paragraph does not specify which Defendant is being referred to.

4. Defendant Litton admits the allegations contained in Paragraph 4 of Plaintiffs' Complaint.

5. Defendant Litton neither admits nor denies the allegations contained in Paragraph 5 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

FACTUAL ALLEGATIONS

6. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-5 as though fully set forth herein.

7. Defendant Litton neither admits nor denies the allegations contained in Paragraph 7 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

8. Defendant Litton neither admits nor denies the allegations contained in Paragraph 8 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

9. Defendant Litton neither admits nor denies the allegations contained in Paragraph 9 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

10. Defendant Litton neither admits nor denies the allegations contained in Paragraph 10 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations and due to the fact that Defendant Litton is a loan servicer and was not the lender at the time that Plaintiffs obtained their loan.

11. Defendant Litton denies the allegations contained in Paragraph 11 of Plaintiffs' Complaint for the reason that they are untrue.

12. Defendant Litton denies the allegations contained in Paragraph 12 of Plaintiffs' Complaint for the reason that they are untrue.

13. Defendant Litton denies the allegations contained in Paragraph 13 of Plaintiffs' Complaint for the reason that they are untrue.

14. Defendant Litton denies the allegations contained in Paragraph 14 of Plaintiffs' Complaint for the reason that they are untrue.

15. Defendant Litton neither admits nor denies the allegations contained in Paragraph 15 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

16. Defendant Litton denies the allegations contained in Paragraph 16 of Plaintiffs' Complaint for the reason that they are untrue even though it is not clear what Defendant is referred to.

17. Defendant Litton denies the allegations contained in Paragraph 17 of Plaintiffs' Complaint for the reason that they are untrue because Litton did not make a loan to the borrowers.

18. Defendant Litton neither admits nor denies the allegations contained in Paragraph 18 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

19. Defendant Litton neither admits nor denies the allegations contained in Paragraph 19 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

20. Defendant Litton neither admits nor denies the allegations contained in Paragraph 20 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

21. To the extent that the allegations contained in Paragraph 21 of Plaintiffs' Complaint relate to Defendant Litton, Defendant Litton denies for the reason that they are untrue.

22. To the extent that the allegations contained in Paragraph 22 of Plaintiffs' Complaint relate to Defendant Litton, Defendant Litton denies for the reason that they are untrue.

23. Defendant Litton denies the allegations contained in Paragraph 23 of Plaintiffs' Complaint for the reason that they are untrue.

24. Defendant Litton denies the allegations contained in Paragraph 24 of Plaintiffs' Complaint for the reason that they are untrue.

25. Defendant Litton neither admits nor denies the allegations contained in Paragraph 25 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

26. Defendant Litton admits that Plaintiffs have missed several mortgage payments as alleged in Paragraph 26 of Plaintiffs' Complaint. Defendant Litton neither admits nor denies the remaining allegations contained in Paragraph 26 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

27. Defendant Litton admits it had scheduled a foreclosure sale as alleged in Paragraph 27 of Plaintiffs' Complaint.

28. Defendant Litton neither admits nor denies the allegations contained in Paragraph 28 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

COUNT I
ACCOUNTING

29. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-28 as though fully set forth herein.

30. Defendant Litton denies the allegations contained in Paragraph 30 of Plaintiffs' Complaint for the reason that they are untrue.

31. Defendant Litton denies the allegations contained in Paragraph 31 of Plaintiffs' Complaint for the reason that they are untrue.

32. Defendant Litton denies the allegations contained in Paragraph 32 of Plaintiffs' Complaint for the reason that they are untrue.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

- A. Deny the relief requested by Plaintiffs;
- B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and
- C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT II
WRONGFUL FORECLOSURE

33. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-32 as though fully set forth herein.

34. Defendant Litton neither admits nor denies the allegations contained in Paragraph 34 of Plaintiffs' Complaint as Plaintiffs have cited a statute which speaks for itself and requires no answer.

35. Defendant Litton denies the allegations contained in Paragraph 35 of Plaintiffs' Complaint for the reason that they are untrue.

36. Defendant Litton denies the allegations contained in Paragraph 36 of Plaintiffs' Complaint for the reason that they are untrue.

37. Defendant Litton denies the allegations contained in Paragraph 37 of Plaintiffs' Complaint for the reason that they are untrue.

38. Defendant Litton denies the allegations contained in Paragraph 38 of Plaintiffs' Complaint for the reason that they are untrue.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

- A. Deny the relief requested by Plaintiffs;

B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and

C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT III
VIOLATION OF 15 USC §1639

39. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-38 as though fully set forth herein.

40. Defendant Litton denies the allegations contained in Paragraph 40 of Plaintiffs' Complaint for the reason that they are untrue.

41. Defendant Litton denies the allegations contained in Paragraph 41 of Plaintiffs' Complaint for the reason that they are untrue.

42. Defendant Litton neither admits nor denies the allegations contained in Paragraph 42 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

43. Defendant Litton denies the allegations contained in Paragraph 43 of Plaintiffs' Complaint for the reason that they are untrue.

44. Defendant Litton denies the allegations contained in Paragraph 44 of Plaintiffs' Complaint for the reason that they are untrue.

45. Defendant Litton denies the allegations contained in Paragraph 45 of Plaintiffs' Complaint for the reason that they are untrue.

46. Defendant Litton denies the allegations contained in Paragraph 46 of Plaintiffs' Complaint for the reason that they are untrue.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

- A. Deny the relief requested by Plaintiffs;
- B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and
- C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT IV
PREDATORY LENDING

47. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-46 as though fully set forth herein.

48. Defendant Litton denies the allegations contained in Paragraph 48 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

49. Defendant Litton denies the allegations contained in Paragraph 49 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

50. Defendant Litton denies the allegations contained in Paragraph 50 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

51. Defendant Litton denies the allegations contained in Paragraph 51 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

52. Defendant Litton denies the allegations contained in Paragraph 52 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

53. Defendant Litton denies the allegations contained in Paragraph 53 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

54. Defendant Litton denies the allegations contained in Paragraph 54 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

- A. Deny the relief requested by Plaintiffs;
- B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and
- C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT V
VIOLATION OF TRUTH IN LENDING ACT, 15 U.S.C. §1601 ET SEQ.

55. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-54 as though fully set forth herein.

56. Defendant Litton denies the allegations contained in Paragraph 56 of Plaintiffs' Complaint for the reason that they are untrue as Defendant Litton would not have issued any loan disclosures to Plaintiffs in its capacity as a loan servicer and not a lender.

57. Defendant Litton denies the allegations contained in Paragraph 57 of Plaintiffs' Complaint for the reason that they are untrue as Defendant Litton would not have issued any loan disclosures to Plaintiffs in its capacity as a loan servicer and not a lender.

58. Defendant Litton denies the allegations contained in Paragraph 58 of Plaintiffs' Complaint for the reason that they are untrue.

59. Defendant Litton denies the allegations contained in Paragraph 59 of Plaintiffs' Complaint for the reason that they are untrue as Defendant Litton would not have issued any loan disclosures to Plaintiffs in its capacity as a loan servicer and not a lender.

60. Defendant Litton denies the allegations contained in Paragraph 60 of Plaintiffs' Complaint for the reason that they are untrue.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

- A. Deny the relief requested by Plaintiffs;
- B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and
- C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT VI
FRAUDULENT MISREPRESENTATION

61. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-60 as though fully set forth herein.

62. Defendant Litton denies the allegations contained in Paragraph 62 of Plaintiffs' Complaint for the reason that they are untrue as Defendant Litton would not have issued any loan disclosures to Plaintiffs in its capacity as a loan servicer and not a lender.

63. Defendant Litton denies the allegations contained in Paragraph 63 of Plaintiffs' Complaint for the reason that they are untrue as Defendant Litton would not have issued any loan disclosures and/or made representations to Plaintiffs in its capacity as a loan servicer and not a lender.

64. Defendant Litton denies the allegations contained in Paragraph 64 of Plaintiffs' Complaint for the reason that they are untrue due as Defendant Litton would not have issued any loan disclosures and/or made representations to Plaintiffs in its capacity as a loan servicer and not a lender.

65. Defendant Litton denies the allegations contained in Paragraph 65 of Plaintiffs' Complaint for the reason that they are untrue as Defendant Litton would not have issued any loan disclosures and/or made representations to Plaintiffs in its capacity as a loan servicer and not a lender.

66. Defendant Litton denies the allegations contained in Paragraph 66 of Plaintiffs' Complaint for the reason that they are untrue as Defendant Litton would not have issued any loan disclosures and/or made representations to Plaintiffs in its capacity as a loan servicer and not a lender.

67. Defendant Litton denies the allegations contained in Paragraph 67 of Plaintiffs' Complaint for the reason that they are untrue as Defendant Litton would not have issued any loan disclosures and/or made representations to Plaintiffs in its capacity as a loan servicer and not a lender.

68. Defendant Litton denies the allegations contained in Paragraph 68 of Plaintiffs' Complaint for the reason that they are untrue as Defendant Litton would not have issued any loan disclosures to Plaintiffs in its capacity as a loan servicer and not a lender.

69. Defendant Litton denies the allegations contained in Paragraph 69 of Plaintiffs' Complaint for the reason that they are untrue.

70. Defendant Litton denies the allegations contained in Paragraph 70 of Plaintiffs' Complaint for the reason that they are untrue.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

A. Deny the relief requested by Plaintiffs;

B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and

C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT VII
NEGLIGENT MISREPRESENTATION

71. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-70 as though fully set forth herein.

72. Defendant Litton denies the allegations contained in Paragraph 72 of Plaintiffs' Complaint for the reason that they are untrue because Defendant Litton did not extend a Note or Mortgage to Plaintiffs.

73. Defendant Litton denies the allegations contained in Paragraph 73 of Plaintiffs' Complaint for the reason that they are untrue.

74. Defendant Litton denies the allegations contained in Paragraph 74 of Plaintiffs' Complaint for the reason that they are untrue.

75. Defendant Litton neither admits nor denies the allegations contained in Paragraph 75 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

A. Deny the relief requested by Plaintiffs;

B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and

C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT VIII
DEFAMATION OF CREDIT/VIOLETION OF FAIR CREDIT REPORTING ACT

76. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-75 as though fully set forth herein

77. Defendant Litton denies the allegations contained in Paragraph 77 of Plaintiffs' Complaint for the reason that they are untrue.

78. Defendant Litton denies the allegations contained in Paragraph 78 of Plaintiffs' Complaint for the reason that they are untrue.

79. Defendant Litton denies the allegations contained in Paragraph 79 of Plaintiffs' Complaint for the reason that they are untrue.

80. Defendant Litton denies the allegations contained in Paragraph 80 of Plaintiffs' Complaint for the reason that they are untrue.

81. Defendant Litton neither admits nor denies the allegations contained in Paragraph 81 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

82. Defendant Litton neither admits nor denies the allegations contained in Paragraph 82 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

83. Defendant Litton neither admits nor denies the allegations contained in Paragraph 83 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

- A. Deny the relief requested by Plaintiffs;
- B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and
- C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT IX
RESCISSION OF NOTES AND MORTGAGES

84. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-83 as though fully set forth herein.

85. Defendant Litton denies the allegations contained in Paragraph 85 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

86. Defendant Litton denies the allegations contained in Paragraph 86 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

87. Defendant Litton neither admits nor denies the allegations contained in Paragraph 87 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

88. Defendant Litton neither admits nor denies the allegations contained in Paragraph 88 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

- A. Deny the relief requested by Plaintiffs;

B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and

C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT X
REFORMATION OF NOTES AND MORTGAGES

89. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-88 as though fully set forth herein.

90. Defendant Litton denies the allegations contained in Paragraph 90 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

91. Defendant Litton denies the allegations contained in Paragraph 91 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

92. Defendant Litton neither admits nor denies the allegations contained in Paragraph 92 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

93. Defendant Litton neither admits nor denies the allegations contained in Paragraph 93 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

A. Deny the relief requested by Plaintiffs;

B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and

C. Grant such other and further relief this Court deems just and equitable under the circumstances

COUNT XI
VIOLATION OF MORTGAGE BROKERS, LENDERS, AND SERVICERS LICENSING
ACT, MCL § 445.1651, ET SEQ.

94. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-93 as though fully set forth herein.

95. Defendant Litton neither admits nor denies the allegations contained in Paragraph 95 of Plaintiffs' Complaint as Plaintiffs have cited a statute which requires no answer as it speaks for itself.

96. Defendant Litton denies the allegations contained in Paragraph 96 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

97. Defendant Litton denies the allegations contained in Paragraph 97 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

- A. Deny the relief requested by Plaintiffs;
- B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and
- C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT XII
USURY/VIOLATION OF USURY ACT – MCL § 438.31 ET SEQ.

98. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-97 as though fully set forth herein.

99. Defendant Litton denies the allegations contained in Paragraph 99 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

100. Defendant Litton neither admits nor denies the allegations contained in Paragraph 100 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

101. Defendant Litton neither admits nor denies the allegations contained in Paragraph 101 of Plaintiffs' Complaint for the reason that it lacks sufficient information or knowledge to form a belief as to the allegations.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

- A. Deny the relief requested by Plaintiffs;
- B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and
- C. Grant such other and further relief this Court deems just and equitable under the circumstances.

COUNT XIII
TEMPORARY RESTRAINING ORDER/PRELIMINARY INJUNCTION

102. Defendant Litton repeats and incorporates its answers to the allegations contained in Paragraphs 1-101 as though fully set forth herein.

103. Defendant Litton denies the allegations contained in Paragraph 103 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

104. Defendant Litton denies the allegations contained in Paragraph 104 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

105. Defendant Litton denies the allegations contained in Paragraph 105 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

106. Defendant Litton denies the allegations contained in Paragraph 106 of Plaintiffs' Complaint, to the extent that they apply to Defendant Litton, for the reason that they are untrue.

107. Defendant Litton denies the allegations contained in Paragraph 107 of Plaintiffs' Complaint for the reason that they are untrue.

WHEREFORE, Defendant Litton respectfully requests that this Honorable Court grant the following relief:

- A. Deny the relief requested by Plaintiffs;
- B. Grant Defendant Litton its reasonable attorney fees and costs incurred in having to defend this action; and
- C. Grant such other and further relief this Court deems just and equitable under the circumstances.

Respectfully submitted,

HERTZ SCHRAM, P.C.

/s/ Ari M. Charlip

DATED: May 15, 2009

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